

**GOVERNMENT OF PUERTO RICO  
PUERTO RICO PUBLIC SERVICE REGULATORY BOARD  
PUERTO RICO ENERGY BUREAU**

<b>NEPR</b>
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**IN RE:**  
IN RE: PUERTO RICO ELECTRIC POWER  
AUTHORITY PERMANENT RATE

**CASE NO. NEPR-MI-2020-0001**

**SUBJECT: Submission of Revised  
Reconciliations and Revised FCA, PPCA,  
PPCA, and FOS Calculated Factors and  
Request for Confidential Treatment**

**MOTION SUBMITTING REVISED RECONCILIATIONS AND REVISED FCA, PPCA,  
AND FOS CALCULATED FACTORS, AND REQUEST FOR CONFIDENTIAL  
TREATMENT**

**TO THE HONORABLE PUERTO RICO ENERGY BUREAU:**

COME NOW LUMA Energy, LLC (“ManagementCo”), and LUMA Energy Servco, LLC (“ServCo”) (jointly referred to as the “Operator” or “LUMA”), through the undersigned counsel, and respectfully state and request the following:

**I. Introduction and Background**

Pursuant to a Resolution and Order dated January 17, 2020, this honorable Puerto Rico Energy Bureau (“Energy Bureau”) has conducted approval and revisions of the factors associated with several riders, including contributions in lieu of taxes cost adjustment (CILTA), help to human subsidies (SUBA-HH), non-help to human subsidies (SUBA-NHH), Fuel Charge Adjustment (FCA), the Purchased Power Charge Adjustment (PPCA), and the Fuel Oil Subsidy (FOS), and their reconciliations, in this proceeding, Case No. NEPR-MI-2020-0001. The reconciliations and FCA, PPCA, and FOS calculated factors are filed quarterly with this Honorable Energy Bureau pursuant to the Final Rate Order issued on January 10, 2017, Case CEPR-AP-2015-0001, as amended (“Final Rate Order”).

On June 20, 2023, LUMA filed *Motion Submitting Reconciliations for May through June 2023, and Submission of FCA, PPCA, PPCA, and FOS Calculated Factors and Request for Confidential Treatment*, whereby LUMA submitted the FCA, PPCA and FOS reconciliations for May 2023 and the calculated factors that this Energy Bureau could implement starting July 1<sup>st</sup> (“Submission of May Reconciliations and Calculated Factors” and/or “June 20<sup>th</sup> Submission”). On June 28, 2023, LUMA filed a response in compliance with a Request for Information issued by this Energy Bureau on June 22<sup>nd</sup>. *See Motion in Compliance with Order of June 22, 2023.*

In a Resolution and Order dated June 30, 2023, this Energy Bureau approved the annual factors for the CILTA, SUBA-HH, and SUBA-NHH riders and determined to maintain FOS factor set in the March 30<sup>th</sup> Order and the FCA and PPCA factors set on May 24<sup>th</sup> Order, instead of the FCA PPCA Factors proposed in the June 20<sup>th</sup> Submission. *See June 30<sup>th</sup> Order*, pages 6-12. This Energy Bureau determined that there was uncertainty in fuel costs projections for July through September 2023. The basis for that conclusion was that LUMA had not received Genera PR LLC’s (Genera) Fuel Savings Plan and thus, LUMA’s fuel costs projections did not consider Genera’s Fuel Savings Plan. This Energy Bureau also referenced that the calculated factors presented with the Submission of May Reconciliations and Calculated Factors did not consider the temporary generation at Palo Seco and San Juan.

In the June 30<sup>th</sup> Order, this Energy Bureau directed that Genera should file its Fuel Savings Plan by July 10<sup>th</sup> and that LUMA shall submit on or before July 17<sup>th</sup> at 12:00 pm, the calculated FCA, PPCA and FOS factors to be implemented from August 1<sup>st</sup> through September 30<sup>th</sup>, taking into consideration the temporary generation at Palo Seco and San Juan, as well as the \$61,379,713 that PREPA received as reimbursement from FEMA related to Hurricane Fiona. *See June 30<sup>th</sup>*

Order, pages 13-14. Finally, this Energy Bureau ordered that LUMA should submit the May 2023 FCA, PPCA and FOS reconciliations.

As stated in Genera's *Memorandum of Law in Support of Confidential Treatment of the Fuel Optimization Plan Draft Submitted by Genera in Compliance with the June 30, 2023, Order* filed on July 14, 2023 ("Genera's July 14<sup>th</sup> Memorandum"), on July 9, 2023, Genera submitted a proposed Fuel Optimization Plan to this Energy Bureau in draft form. *See* Genera's July 14<sup>th</sup> Memorandum, page 2. Genera shared the Fuel Optimization Plan with LUMA on July 10, 2023. *Id.* As per Genera's July 14<sup>th</sup> Memorandum, the Fuel Optimization Plan is pending revisions by the Puerto Rico Public Private Partnerships Authority ("P3 Authority") and approval by this Energy Bureau. *Id.*, pages 6. Consequently, as explained in Genera's July 14<sup>th</sup> Memorandum, the Fuel Optimization Report is subject to revisions and is a working document. *See id.*

On July 17, 2023, LUMA filed with this Energy Bureau the reconciliations of the FCA and PPCA costs for the months of May and June 2023, and the calculated factors for the FCA, PPCA, and FOS riders to be applied for the period from August 1<sup>st</sup> through September 30<sup>th</sup>, 2023, consistent with the approved and currently existing PREPA Tariff Book and the Final Rate Order. *See Submission of Reconciliations for May and June 2023, Submission of FCA, PPCA, PPCA, and FOS Calculated Factors, and Request for Confidential Treatment* ("July 17<sup>th</sup> Submission"). With the July 17<sup>th</sup> Submission LUMA filed several supporting Excel spreadsheets, including both public and confidential versions of a spreadsheet with the reconciliations entitled "FAC-PPAC Reconciliation May-June 2023" and public and confidential versions of the calculated FCA, PPCA and FOS factors in spreadsheets entitled "August-September 2023 Proposed Factors." LUMA also submitted fuel inventory files and public and confidential versions of spreadsheets entitled

“WEIGHTED AVERAGE FUEL PRICE\_PREPA SYSTEM\_BunkerC\_Diesel\_May 31 2023” and “Precio Ponderado Análisis \_ 2023.05.31-REG.”

In the July 17<sup>th</sup> Submission, LUMA informed that the fuel cost projections used for the calculated factors consider all generation that is currently projected to be available for the period of August 1 through September 30, 2023, including the temporary emergency generation at Palo Seco and San Juan.

Furthermore, with the July 17<sup>th</sup> Submission, LUMA filed the EE Rider’s calculated factor in identical form to that filed as Exhibit 2 to the EE Rider Filing of May 19, 2023 in Case No. NEPR-MI-2022-0001, *In Re: Energy Efficiency and Demand Response Transition Period Plan* (the “EE/DR TPP Case”). LUMA requested that the Energy Bureau consider the EE Rider calculated factor in this Permanent Rate docket and direct that all future filings regarding the implementation of the EE Rider, including future calculated factors and reconciliations, be filed in this Permanent Rate docket.

On July 18, 2023, this Energy Bureau directed that by July 20, 2023, LUMA should clarify how the costs for the fuel to be consumed by the temporary generators were excluded from the projected costs and “include in the calculation of the proposed factors to be in effect from August 1 through September 30, 2023 the portion of the costs for the temporary generation that the people of Puerto Rico will have to bear” (“July 18<sup>th</sup> Order”). *See* Resolution and Order of July 18, 2023, page 2.

In response to the July 18<sup>th</sup> Order, LUMA respectfully explains that Attachment 3 of the Excel spreadsheets entitled “August-September 2023 Proposed Factors,” filed with the July 17<sup>th</sup> Submission, with projected fuel and purchased power expenses for the months of August through September 2023, included a \$0 value for natural gas consumed by the FEMA temporary

generators. *See* FAC-PPAC Reconciliation May-June 2023 \_Values.xlsx, Attachment 3, cell D96. This, consistent with the information available to LUMA when the July 17<sup>th</sup> Submission was completed and the statement by this Energy Bureau in the Resolution and Order of June 30, 2023 in this proceeding, that the U.S. Army Corps of Engineers (“USACE”) is in charge of the Puerto Rico Power System Stabilization Project and would pay for the fuel costs to operate the temporary generators and will not be paid by customers. *See* June 30<sup>th</sup> Order, page 11.

Today, July 20, 2023, LUMA received confirmation from the Central Recovery Reconstruction and Resilience Office of the Government of Puerto Rico (“COR3”) that the costs of operating the temporary emergency generators are subject to a 10% non-federal cost share to be paid by PREPA and thus, PREPA shall include that 10% cost match portion in its operational expenses. Currently, the 10% non-federal cost share to be paid by PREPA is \$47,042,952.27. In light of this information and in compliance with the July 18<sup>th</sup> Order, LUMA hereby submits revised calculated FCA, PPCA and FOS factors that consider the costs to customers of said 10% non-federal cost share. *See* “August-September 2023 Proposed Factors 23.07.20.”

With this submission, LUMA is also filing a revised reconciliation of FCA and PPCA costs to correct an error in the *Price per Barrel Before Authority Use* (cell G11 of the Reconciliation Grand Summary tab) and *Cost per Barrel* (cell G18 of the Reconciliation Grand Summary tab) in the July 17<sup>th</sup> Submission. *See* FAC-PPAC Reconciliation May-June 2023 23.07.20. The fuel inventory files and the WEIGHTED AVERAGE FUEL PRICE\_PREPA SYSTEM\_BunkerC\_Diesel\_May 31 2023” and “Precio Ponderado Análisis \_ 2023.05.31-REG,” Excel spreadsheets remain unaltered and thus, are not included with this submission.

This submission includes Excel spreadsheets filed publicly via email in a file entitled *Values* submitted with this Motion. With this Motion, LUMA is also submitting via email

confidential Excel spreadsheets with formulae intact submitted in a file entitled *Confidential*. As explained in Section VIII *infra*, it is hereby respectfully requested that the Energy Bureau accept and maintain the files and spreadsheets submitted in the file, *Confidential*, under seal of confidentiality.

## **II. Energy Bureau Authority**

This submission of the quarterly reconciliations and proposed FCA, PPCA, and FOS factors involve the Energy Bureau’s authority under Act 57-2104, as amended by Act 17-2019, to “review and approve and, if applicable, modify the rates or fees charged by electric power service companies in Puerto Rico or the contractor of the transmission and distribution system of Puerto Rico in connection with any matter directly or indirectly related to the provision of electric power services.” *See* Act 17-2014, Section 6.3 (n), 22 LPRA §1054(n) (Spanish language) (2021). Also relevant is the Energy Bureau’s authority to “formulate and implement strategies to achieve the objectives of this Act including, but not limited to, attaining the goal of reducing and stabilizing energy costs....” *See Id.*, Section 6.3 (f).

## **III. Regulatory Formulas for Calculated FCA, PPCA, and FOS Factors**

### **1. FCA**

The FCA is a reconciling tariff mechanism that recovers the costs of fuel consumed in PREPA’s generating units on a quarterly basis. *See* PREPA Tariff Book page 49. The FCA applies to all the PREPA tariffs, except to the RHR tariff (RFR by its Spanish acronym, applicable to residents of public complexes owned by the Public Housing Administration). The formula to calculate the FCA factor is:

$$\text{FCA} = \frac{\text{Total Cost of Fuel} + \text{Prior Period Reconciliation}}{\text{Total Applicable Net Retail kWh Sales}}$$

*Id.*

The total cost of fuel is the cost of fuel purchased for all PREPA-generating facilities for the three forecasted months in the quarterly time period. *Id.* The prior period reconciliations are the under or over-recovered funds for the first two months of the current quarter and the last month of the prior quarter. *Id.* LUMA, on behalf of PREPA, shall provide the estimates of the reconciling balance with each proposed quarterly filing of the FCA. *Id.* Finally, the applicable net retail kWh sales include the sale of energy to all customer classes, including the net metering clients. *Id.*

The quarterly filing of reconciliations and calculated factors is due the second week of the third month of each quarter, and the calculated factors, approved by this Energy Bureau, go into effect the first month of the following quarter.

The quarterly reconciliations also include, when applicable and as ordered by the Energy Bureau, any unreconciled amounts from the previous quarter if the factors were not adjusted during that period.

## **2. PPCA**

The PPCA is a reconciling tariff mechanism that recovers the costs of purchased power consumed in PREPA's generating units on a quarterly basis. *See* PREPA Tariff Book page 51. The PPCA applies to all the PREPA tariffs, except to the RHR tariff (RFR by its Spanish language acronym) (applicable to residents of public complexes owned by the Public Housing Administration). The formula to calculate the PPCA factor is:

$$\text{PPCA} = \text{Total Costs Purchased Power} + \text{Prior Period Reconciliation}$$

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$$\text{Total Applicable Net Retail kWh Sales}$$

*Id.*

The total cost of purchased power is the cost of purchased resources of energy and capacity for the three forecasted months in the quarterly time period. *Id.* The prior period reconciliations are the under or over-recovered funds for the first two months of the current quarter and the last month of the prior quarter. *Id.* LUMA shall provide the estimated reconciling balance with each proposed quarterly filing of the PPCA. *Id.* Finally, the applicable net retail kWh sales include the sale of energy to all customer classes, including the net metering clients. *Id.*

### **3. FOS**

The FOS applies to certain general residential services tariffs (GRS by its English-language acronym), including disabled persons, elderly persons, and university students, tariffs for special residential services (LRS by its English-Language acronym), and residential services for public projects (RH3 by its English-Language acronym). *Id.*, at page 53. This fuel subsidy applies to monthly consumption that does not exceed 500 kWh. It is calculated quarterly.

For the first \$30 per barrel of fuel, excluding natural gas, clients will receive a credit equivalent to the subsidy factor multiplied by the customer's monthly consumption of up to 400 kWh. *Id.* Customers that consume between 401 kWh and 425 kWh will receive a credit equivalent to a consumption of 400 kWh. *Id.* Finally, for customers that consume between 426 kWh and 500 kWh, the credit will be progressively reduced to 425 kWh to reach 0 kWh or 500 kWh. *Id.*

The quarterly filing of reconciliations and calculated factors is due the second week of the third month of each quarter, and the calculated factors will go into effect the first month of the following quarter. The quarterly reconciliations also include, when applicable and as ordered by the Energy Bureau, any unreconciled amounts from the previous quarter if the factors were not adjusted during that period.



#### IV. Revised Reconciliations

The reconciliations for the FCA and PPCA riders submitted with this Motion in the files entitled “FAC-PPAC Reconciliation May-June 2023 23.07.20Values .xlsx” and August-September 2023 Proposed Factors 23.07.20\_Values.xlsx,” include calculations for the reconciliations of the FCA and PPCA riders (costs versus revenues) and the amounts to be recovered or returned for each of these riders.

#### V. Factors Fixed by the Energy Bureau for April 1<sup>st</sup> through July 31<sup>st</sup>, 2023

In the March 31<sup>st</sup> Order, this honorable Energy Bureau set the following factors to apply from April 1<sup>st</sup> through June 31<sup>st</sup>, 2023:

Adjustment Clause	Factor \$ kWh	Effective Dates
FCA	0.146236	April 1, 2023 –June 30, 2023
PPCA	0.035997	April 1, 2023 –June 30, 2023
FOS	-0.026671	April 1, 2023 –June 30, 2023

Furthermore, in the May 24<sup>th</sup> Order, this Energy Bureau ordered that the following FCA and PPCA factors would apply from June 1<sup>st</sup> through June 30<sup>th</sup>, 2023:

Adjustment Clause	Factor \$ kWh	Effective Dates
FCA	0.087978	June 1, 2023 –June 30, 2023
PPCA	0.039353	June 1, 2023 –June 30, 2023

In the June 30<sup>th</sup> Order, this Energy Bureau maintained the prior FCA, PPCA and FOS factors for July 2023:

Adjustment Clause	Factor \$ kWh	Effective Dates
FCA	0.087978	July 1, 2023 –July 31, 2023
PPCA	0.039353	July 1, 2023 –July 31, 2023
FOS	-0.026671	July 1, 2023 –July 31, 2023

## **VI. Revised Calculated Factors**

The Excel spreadsheet entitled “August-September 2023 Proposed Factors 23.07.20.xlsx” includes revised calculations for the proposed FCA, PPCA, and FOS factors. FCA and FOS are presented in Attachment 1 and the PPCA factors are presented in Attachment 2.

LUMA is submitting two (2) possible scenarios to return to customers the \$61,379,713.00 million that PREPA received as reimbursement from FEMA related to Hurricane Fiona fuel costs. In the first scenario, the \$61,379,713 million would be returned to customers in the remainder of the current quarter (August and September 2023), as per the June 30<sup>th</sup> Order.

In the second scenario, the \$61,379,713 million would be returned to customers prorated through December 2023, at a rate of \$12,275,942.60 per month. LUMA respectfully submits that distributing the return to customers monthly until December 2023, is beneficial to customers as it shall spread out the impact of the reimbursement throughout the rest of the calendar year, as opposed to one significant reduction applicable to energy bills in August and September. As this Energy Bureau is aware, the FCA and PPCA factors are calculated quarterly based on projections of fuel and purchased power costs for the next quarter. Those calculations are subject to externalities and contingencies such as the volatility of fuel prices, limitations of fuel supply and availability of generation. LUMA understands that a prorated application of the \$61,379,713 million will help offset those externalities that could increase energy prices in the coming months. In sum, the second scenario would help to reduce volatility of total energy costs to customers over the remainder of 2023.

LUMA respectfully requests that the Energy Bureau review the following two (2) possible scenarios for calculated factors, applicable from August 1<sup>st</sup>, 2023, to September 30<sup>th</sup>, 2023:

Scenario 1:

<b>Adjustment Clause</b>	<b>Factor (\$/kWh)</b>
FCA	\$0.094111
PPCA	\$0.027931
FOS	\$0.014335

Scenario 2:

<b>Adjustment Clause</b>	<b>Factor (\$/kWh)</b>
FCA	\$0.107437
PPCA	\$0.027931
FOS	\$0.014335

*See Id.*

**VII. List of Documents Filed in Support of Revised Reconciliations and FCA, PPCA, and FOS Factors.**

**1. Confidential Folder**

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| <ol style="list-style-type: none"><li>1. August-September 2023 Proposed Factors 23.07.20.xlsx</li><li>2. FAC-PPAC Reconciliation May-June 2023 23.07.20.xlsx</li></ol> |
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**2. Public Files in Values Folder**

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| <ol style="list-style-type: none"><li>1. August-September 2023 Proposed Factors_Values.xlsx</li><li>2. FAC-PPAC Reconciliation May-June 2023 23.07.20.xlsx</li></ol> |
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**VIII. Request for Confidential Treatment of Excel Files and Supporting Memorandum of Law.**

The confidential Excel files mentioned in Section VIA of this Motion *supra*, submitted with this Motion, are Excel spreadsheets submitted in native format (.xls) and with formulae intact. They include formulae and original calculations made by LUMA personnel that reveal confidential procedures. They also include sensitive commercial information belonging to LUMA

and/or PREPA that are thus protected by law from disclosure, and that should not be disclosed in native form.

**A. Applicable Laws and Regulations to submit information confidentially before the Bureau.**

The bedrock provision on the management of confidential information filed before this Bureau, is Section 6.15 of Act 57-2014, known as the “Puerto Rico Energy Transformation and Relief Act.” It provides, in pertinent part, that: “if any person who is required to submit information to the Energy [Bureau] believes that the information to be submitted has any confidentiality privilege, such person may request the Commission to treat such information as such ...” 22 LPRA §1054n. If the Energy Bureau determines, after appropriate evaluation, that the information should be protected, “it shall grant such protection in a manner that least affects the public interest, transparency, and the rights of the parties involved in the administrative procedure in which the allegedly confidential document is submitted.” *Id.*, Section 6.15 (a).

Relatedly, in connection with the duties of electric power service companies, Section 1.10 (i) of Act 17-2019 provides that electric power service company shall provide information requested by customers, except for confidential information in accordance with the Rules of Evidence of Puerto Rico.”

Access to the confidential information shall be provided “only to the lawyers and external consultants involved in the administrative process after the execution of a confidentiality agreement.” *Id.*, Section 6.15(b). Finally, Act 57-2014 provides that this Energy Bureau “shall keep the documents submitted for its consideration out of public reach only in exceptional cases. In these cases, the information shall be duly safeguarded and delivered exclusively to the personnel of the [Bureau] who needs to know such information under nondisclosure agreements. However,

the [Bureau] shall direct that a non-confidential copy be furnished for public review”. *Id.*, Section 6.15 (c).

The Energy Bureau’s Policy on Confidential Information details the procedures a party should follow to request that a document or portion thereof be afforded confidential treatment. In essence, the referenced Policy requires the identification of the confidential information and the ... filing of a memorandum of law explaining the legal basis and support for a request to file information confidentially. *See* CEPR-MI-2016-0009, Section A, as amended by the Resolution of September 16, 2016, CEPR-MI-2016-0009. The memorandum should also include a table that identifies the confidential information, a summary of the legal basis for the confidential designation, and the reasons why each claim or designation conforms to the applicable legal basis of confidentiality. *Id.* paragraphs 3. The party who seeks confidential treatment of information filed with the Bureau must also file both “redacted” or “public version” and an “unredacted” or “confidential” version of the document that contains confidential information. *Id.* paragraph 6.

The aforementioned Energy Bureau policy on the management of confidential information in procedures states the following with regard to access to validated Trade Secret Information:

1. Trade Secret Information

Any document designated by the [Energy Bureau] as Validated Confidential information because it is a trade secret under Act 80-2011 may only be accessed by the Producing Party and the [Bureau], unless otherwise set forth by the [Bureau] or any competent court.

*Id.* Section D (on Access to Validated Confidential Information).

Relatedly, Energy Bureau Regulation No. 8543, *Regulation on Adjudicative, Notice of Noncompliance, Rate Review, and Investigation Proceedings*, includes a provision for filing

confidential information in adjudicatory proceedings before this honorable Bureau. To wit, Section 1.15 provides that “a person has the duty to disclose information to the [Bureau] considered to be privileged information, request the [Bureau] the protection of said information, and provide supportive arguments, in writing, for a claim of information of privileged nature. The [Energy Bureau] shall evaluate the petition and, if it understands [that] the material merits protection, proceed accordingly to ... Article 6.15 of Act No. 57-2015, as amended.” *See also* Bureau Regulation No. 9137 on *Performance Incentive Mechanism*, Section 1.13 (addressing disclosure before the Bureau of Confidential Information and directing compliance with Resolution CEPR-MI-2016-0009).

### **B. Grounds for Confidentiality**

Under the Industrial and Trade Secret Protection Act of Puerto Rico, Act 80-2011, 10 LPRA §§4131-4144, industrial or trade secrets are deemed to be any information:

- (a) That has a present or a potential independent financial value or that provides a business advantage, insofar as such information is not common knowledge or readily accessible through proper means by persons who could make a monetary profit from the use or disclosure of such information, and
- (b) for which reasonable security measures have been taken, as circumstances dictate, to maintain its confidentiality.

*Id.* §4131, Section 3 Act. 80-2011.<sup>1</sup> Trade secrets include, but are not limited to, processes, methods, mechanisms, manufacturing processes, formulas, projects, or patterns to develop machinery and lists of specialized clients that may afford an advantage to a competitor. *See* Statement of Motives, Act 80-2011. As explained in the Statement of Motives of Act 80-2011,

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<sup>1</sup> Relatedly, Rule 513 of the Rules of Evidence of Puerto Rico provides that the owner of a trade secret may invoke the privilege to refuse to disclose, and to prevent another person, from disclosing trade secrets, provide that these actions do not tend to conceal fraudulent actions or lead to an injustice. 32 P.R. Laws Annot. Ap. VI, R 513. If a court of law mandates disclosure of a trade secret, precautionary measures should be adopted to protect the interests of the owner of the trade secret. *Id.*

protected trade secrets include any information bearing commercial or industrial value that the owner reasonably protects from disclosure. *Id.* See also Article 4 of Puerto Rico's Open Data Law, Act 122-2019 (exempting the following from public disclosure: (1) commercial or financial information whose disclosure will cause competitive harm; (2) trade secrets protected by a contract, statute or judicial decision (3) private information of third parties). See Act 122-2019, Articles 4 (ix) and (x) and (xi)).

The Puerto Rico Supreme Court has explained that the trade secrets privilege protects free enterprise and extends to commercial information that is confidential in nature. *Ponce Adv. Med. v. Santiago Gonzalez*, 197 DPR 891, 901-02 (2017) (citation omitted).

The Excel spreadsheets submitted today in native form and with formulae intact in the file entitled *Confidential* contain protected as trade secrets. They have commercial value to LUMA and PREPA as they reveal confidential processes and analysis to produce calculations in support of the public filings of the proposed FCA, PPCA, and FOS factors. LUMA and PREPA keep and maintain these native files confidentially and have not disclosed them to the public or unauthorized third parties.

LUMA appreciates the importance of placing the Energy Bureau in the position of reviewing the reconciliations and fixing the annual factors. However, to avoid future competitive harms that could ensue if original format spreadsheets with formulae and calculations are publicly disclosed, LUMA respectfully requests that the Excel files submitted today in the file entitled *Confidential*, be received, kept, and maintained confidentially by this Energy Bureau.

The confidential spreadsheets included in the file entitled *Confidential* are: (1) documents with commercial and financial value, and (2) include data that **is not common knowledge or readily accessible** by third parties who may seek to profit from the data or gain commercial

advantages. The spreadsheets are business documents showing processes, methods, and mechanisms that garner protection under Act 80-2011. They are original documents that have not been disclosed to third parties and whose disclosure would reveal sensitive and private commercial processes employed by LUMA and PREPA. The disclosure of this sensitive commercial information would place LUMA and PREPA in vulnerable and disadvantageous commercial positions that could affect LUMA customers and impact rates. Reasonable measures have been taken to protect the files from disclosure and avoid unauthorized access by third parties that could seek to gain commercial advantages. It is respectfully submitted that the spreadsheets included in the file entitled *Confidential* are trade secrets protected from public disclosure by Act 80-2011.

**WHEREFORE**, LUMA respectfully requests that the Energy Bureau **take notice** of the aforementioned, **accept** the revised reconciliations of FCA and PPCA costs and the revised calculated FCA, PPCA and FOS factors to apply starting on August 1, 2023; and **grant** the request to keep confidentially the spreadsheets filed in excel format and with formulae in the file entitled *Confidential* submitted with this Motion.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 20<sup>th</sup> day of July 2023.

We hereby certify that we filed this Motion using the electronic filing system of this Energy Bureau and that we will send an electronic copy of this Motion to counsel for PREPA Joannely Marrero, [jmarrero@diazvaz.law](mailto:jmarrero@diazvaz.law) and to the Independent Consumer Protection Office, through Director Hannia Rivera, [hrivera@jrsp.pr.gov](mailto:hrivera@jrsp.pr.gov).





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*Exhibit 1*

Revised reconciliations and revised calculated factors to be submitted via email